

John W. Schubert (Firm!)

Disciplinary Note

A reviewing officer in the disciplinary system recently requested bar counsel to publish a note of concern to the New Mexico Bar regarding alleged violations of the Rules of Professional Conduct which occurred during the course of a respondent lawyer's "judge shopping."

Although there is no specific disciplinary rule that addresses "judge shopping," the concept has been deemed as within the jurisdiction of the Disciplinary Board when such actions include dishonesty. The representation at issue included the filing of a complaint by an attorney in a divorce matter, his subsequent entry of a voluntary dismissal of the case when the court rendered an opinion that was unfavorable to his client, and his refile of the matter in an apparently successful effort to obtain a different judge.

In the second divorce proceeding, the lawyer did not disclose to the court that there was opposing counsel or that the identical matter had been presented a few days ear-

lier to another judge. In fact, the lawyer provided a false affidavit from his client to the second judge which stated that the client had not participated as a party or a witness in any other litigation concerning the custody of her minor children.

Rule 16-303(D) of the Rules of Professional Conduct states that "In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer which will enable the tribunal to make an informed decision, whether or not the facts are adverse." Broadly construed, Rule 16-303(D) required a disclosure of prior proceedings.

Argument by a respondent lawyer to the effect that nondisclosure is justifiable on the basis that such zealous representation seeks only to spare a client unfair treatment by the court is generally not viewed as a mitigating factor by the Disciplinary Board. Nondisclosure in the form of a false affidavit also may be grounds for discipline pursuant to Rules 16-102(D), 16-804(A) and 16-804(C).

In Memoriam

George Schubert, a long-time Hobbs attorney, recently passed away. He was born on February 11, 1914. Mr. Schubert received his B.A. from the University of New Mexico and his LL.B. from the University of Texas. He served four years in the Army Air Corps during the second World War. Mr. Schubert practiced law in West Plains, Missouri before moving to Hobbs in 1947, where he practiced until his death on April 25, 1989. He was a member of the Hobbs Rotary Club, a former member of the Board of the College of the Southwest and former Chairman of the Lea County Republican Party. Mr. Schubert was also former City Attorney for Jal and Eunice.

He is survived by his wife and three children.

Lawyers' Support Group

The New Mexico Lawyers' Support Group for members of the New Mexico State Bar interested in Alcohol and/or Substance Abuse Recovery meet every Tuesday at 5:30 p.m. in the 1st Floor Conference Room of the Western Bank Building, 505 Marquette NW, Albuquerque, New Mexico.

All interested members of the State Bar are invited.

(Anonymity and confidentiality will be strictly observed.)

For more information, call 836-7980.

Board of Bar Commissioners Meeting

The next regularly scheduled meeting of the Board of Bar Commissioners is scheduled for May 18-20, 1989 as part of the Annual Long Range Planning Retreat in Cloudcroft.

Position Announcement

Executive Director

DNA - People's Legal Services, Inc. (DNA), Window Rock, Arizona

Requirements: Five or more years legal, administrative or managerial experience, with some experience in staff supervision; demonstrable commitment to serving the poor, especially Native Americans; good communication skills; favorable references; and the ability to perform all job duties. Prefer state or tribal bar admission; familiarity with Native American culture and communities; and fluency in Navajo or Hopi language.

Responsibilities: Overall management and administration of DNA. Raise funds, maintain relationships with funding sources, and insure compliance with grant restrictions. Assist Board of Directors in planning and policy-making, and develop administrative, reporting, and

evaluation procedures. Hire and supervise top management, oversee hiring and training of all staff. Work closely with staff, client communities, and other legal services programed to deliver the highest quality legal services.

Salary/Benefits: \$30,000 to 45,000. Health insurance, pension.

Applications: Resume, writing sample, and addresses and phone numbers of three references to:

Executive Director Search
DNA-People's Legal Services, Inc.
P. O. Box 306
Window Rock, AZ 86515

Open until filled.

An equal opportunity/affirmative action employer. Preference to qualified Navajo and other Indian applicants. W/M/H.